BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking on the Commission's Own Motion to Adopt New Safety and Reliability Regulations for Natural Gas Transmission and Distribution Pipelines and Related Ratemaking Mechanisms.	Rulemaking 11-02-019 (Filed February 24, 2011)

OFFICE OF RATEPAYER ADVOCATES' APPLICATION FOR REHEARING OF DECISION NO. 15-06-044 ADOPTING REVISED GENERAL ORDER 112-F

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I. INTRODUCTION

Pursuant to Rule 16.1 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure (Rules), and California Public Utilities Code § 309.5, the Office of Ratepayer Advocates (ORA) files this application for rehearing of Commission Decision (D.) 15-06-044, the Decision adopting revised General Order (GO) 112-F (the "GO 112 Decision").

The GO 112 Decision, adopting new gas safety regulations, is an important step in the Commission's regulation of California natural gas pipeline operators. Indeed, the GO 112 Decision itself characterizes GO 112 as "the linchpin of the Commission's regulation of natural gas pipelines."[1] Yet the GO 112 Decision contains significant factual errors, mischaracterizations, and omissions.

For example, the GO 112 Decision fails to include in GO 112, without any explanation, the most important gas safety rule adopted by the Commission since the San Bruno explosion – the requirement that a gas operator must have a valid pressure test for every pipe in its system. Pacific Gas and Electric Company (PG&E) has stated that it has aleady spent over one billion dollars, and will likely spend two billion to fully implement,[2] yet ORA's repeated proposals in 2013, 2014, and 2015 to include language clarifying this rule and including it in the revised GO 112[3] were met with silence in the final decision. Specifically, the GO 112 Decision acknowledges that ORA made this proposal, but provides no explanation of why it was rejected. Such an omission is legal

[1] D.15-06-044, p. 10.

[2] *See*, for example, PG&E 2015 Gas Transmission and Storage Rate Case Testimony with Errata, Volume 1, page 4A-32, dated January 23, 2015. PG&E has forecast nearly $182 million in 2015 alone and reported that it spent $1,061 million between 2011 and 2014.

[3] *See* Comments Of The Division Of Ratepayer Advocates Regarding Proposed Changes To General Order 112-E, filed September 27, 2013, pp. 8-9; Comments Of The Office Of Ratepayer Advocates Regarding Revised Proposed Changes To General Order 112-E, filed July 18, 2014, pp. 1-4; and Comments Of The Office Of Ratepayer Advocates On The Proposed Decision To Revise General Order 112-E, filed February 12, 2015, pp. 1-7.

error, in violation of the prohibition against "unreasoned" and "arbitrary and capricious" decision making.

The GO 112 Decision also rewrites the history of the underlying rulemaking proceeding, R.11-02-019, and in the process, represents that the Commission has undertaken important compliance work, which has not, in fact, been done. Specifically, the GO 112 Decision claims that "our primary efforts have been focused on ensuring that California's natural gas transmission system operators are properly determining the Maximum Allowable Operating Pressure (MAOP) for each segment of the natural gas transmission system."[4] As discussed in Section II.C below, this assertion isunfounded, and in fact, in at least one proceeding, the Commission has failed to consider whether a utility's MAOP calculations complied with federal regulations.[5] As such, the GO 112 decision is not only inaccurate, but it represents that important enforcement work has been done, when in fact, it has not.

While ORA appreciates that the errors, misrepresentations and omissions in the GO 112 Decision do not present an imminent safety threat, they place into question the Commission's commitment to a "safety culture" and its ability to make decisions that will support its future enforcement efforts.

The GO 112 Decision is not the only gas safety decision in this proceeding which contains significant errors and omissions and lacks the clarity needed for the Commission to engage in effective enforcement of its gas safety regulations.[6] Ideally, in addition to correcting the GO 112 Decision consistent with this Application for Rehearing (AFR) the Commission would *sua sponte* authorize a review of several of its other gas safety

[4] D.15-06-044, p. 4.

[5] 18 RT 2768:3-2769:8. *See also,* 18 RT 2748:20-2750:25.

[6] As described in the ORA and City of San Carlos Application for Rehearing of the Line 147 Rehearing Order filed July 12, 2015 in this docket, both D.13-12-042 (the Line 147 Decision) and D.15-06-034 (the Line 147 Rehearing Order) contain numerous errors which should be corrected to facilitate clarity of the record in this proceeding and the Commission's enforcement authority.

decisions issued in this proceeding[7] and make the corrections and clarifications needed to ensure consistency across all of them. Absent such action, the Commission's future gas safety enforcement efforts may be jeopardized by a maze of inconsistent and unclear decisions which, among other things, may be unenforceable if appealed. ORA's concerns are affirmed by the recent California Court of Appeals' observation regarding the inconsistency in Commission decisions when it was reviewing a Rule 1.1 decision issued in this docket.[8] It is completely foreseeable that another reviewing court would observe the same types of inconsistencies across the Commission's gas safety directives in this proceeding, with a far less favorable outcome.

The GO 112 Decision was mailed on July 1, 2015. Therefore, this application for rehearing is timely filed.

II. THE GO 112 DECISION CONTAINS LEGAL AND FACTUAL ERRORS THAT SHOULD BE CORRECTED TO INFORM FUTURE GAS SAFETY DECISIONS AND ENFORCEMENT BY THE COMMISSION.

A. Commission Decisions Must Be Reasoned And Supported By Substantial Evidence In Light Of The Whole Record.

Section 1757 of the California Public Utilities Code requires that findings in Commission decisions be "supported by substantial evidence in light of the whole record." The law also requires Commission decisions to address arguments made, and to be reasoned, as opposed to arbitrary and capricious.[9] As described below, the GO 112 Decision fails to consider the "whole record," it fails to provide reasons for rejecting a

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[7] Including, without limitation, D.11-06-017, D.11-09-006, D.13-12-042 and D.15-06-034 all issued in this docket.

[8] *PG&E v. CPUC,* 2015 Cal. App. LEXIS 512, *75 ("In sum, that both the Commission and PG&E can point to seemingly contradictory expressions on the predicate for *Rule 1.1* liability is enough to establish that the Commission's expressions on this issue have not been uniform. Put conversely, if the Commission has a fixed position on *Rule 1.1* liability, its inconsistent expressions make it difficult to discern. We have said that judicial deference is not given to an administrative interpretation that is inconsistent, transitory, or 'vacillating.' (*State Building & Construction Trades Council of California v. Duncan (2008) 162 Cal.App.4th 289, 303 [76 Cal. Rptr. 3d 507]*.)."

[9] *See, e.g., Motor Vehicle Ass'n v. State Farm,* 463 U.S. 29, 43 (1983); *PPL Wallingford Energy LLC v. FERC,* 419 F.3d 1194, 1198 (D.C. Cir. 2005).

highly relevant ORA proposal, and it mischaracterizes the Commission's enforcement activities in this proceeding. These errors, mischaracterizations and omissions put into question the Commission's commitment to gas safety in general. Consequently, the GO 112 Decision should be corrected to provide needed direction for future gas safety enforcement by the Commission.

B. The GO 112 Decision Commits Legal Error By Failing To Explain Why It Has Not Included The Most Important Gas Safety Rule Adopted By The Commission Since The San Bruno Explosion.

1. The Commission Adopted An Important New Gas Safety Rule In D.11-06-017.

In the wake of the San Bruno explosion of September 9, 2010, the Commission issued D.11-06-017, which required operators relying upon the "Grandfather Clause" in the Federal Regulations Code (49 CFR § 192.619(c)) to replace or pressure test any pipe which did not have a valid pressure test. The Grandfather Clause had permitted gas operators to operate vintage gas transmission pipelines at historical operating pressures without the need for a pressure test or full records. D.11-06-017 stated that "historic exemptions [from pressure testing] must end,"[10] and ordered that all in-service natural gas transmission pipelines in California be pressure tested or replaced.

The National Transportation Safety Board's Report (NTSB Report) on the reasons for the explosion found that PG&E's reliance on the Grandfather Clause contributed to the San Bruno explosion:

> Grandfathering of Line 132 by the CPUC in 1961 and then by RSPA in 1970 resulted in missed opportunities to detect the defective pipe. … [P]ursuant to the 1970 grandfather clause, Line 132 and other existing gas transmission pipelines with no prior hydrostatic test were permitted to use as their MAOP the highest operating pressure recorded during the previous 5 years (that is, between 1965–1970) and allowed to continue operating with no further testing. Thus, **the NTSB concludes that if the grandfathering of older pipelines had not been permitted since 1961 by CPUC and since 1970 by the DOT, Line 132 would have undergone a**

[10] D.11-06-017, p. 18.

> **hydrostatic pressure test that would likely have exposed the defective pipe that led to this accident**.[11]

The NTSB summarized the serious safety concerns raised by gas operators' continued reliance on the Grandfather Clause,[12] and commended the Commission for its decision in D.11-06-017 to require operators to pressure test their pipes with "grandfathered MAOPs":

> The state of California has already taken action to address grandfathering for pipelines within its jurisdiction. In its June 9, 2011, order requiring PG&E and other gas transmission operators regulated by the CPUC to either hydrostatically pressure test or replace certain transmission pipelines with grandfathered MAOPs, the CPUC stated that natural gas transmission pipelines "must be brought into compliance with modern standards for safety" and "historic exemptions must come to an end." **The NTSB agrees and concludes that there is no safety justification for the grandfather clause exempting pre-1970 pipelines from the requirement for post construction hydrostatic pressure testing.**[13]

2. ORA Proposed Many Times During the GO 112 Proceedings That The New Rule Be Codified In The New Version Of GO 112, But Its Proposals Were Ignored.

In light of the determination made in D.11-06-017, and the importance of the rule change, as confirmed by the NTSB's express support for the rule change, ORA proposed that the Commission revise GO 112-E to reflect the Commission's more stringent requirements for grandfathered pipes. ORA made this proposal at least three times, in

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[11] National Transportation Safety Board, Pipeline Accident Report, Pacific Gas and Electric Company, Natural Gas Transmission Pipeline Rupture and Fire, San Bruno, California, September 9, 2010, adopted August 30, 2011, pp. 106-107 (NTSB Report) (*emphasis added*). The NTSB Report is available at http://www.ntsb.gov/doclib/reports/2011/PAR1101.pdf.

[12] NTSB Report, pp. 106-107.

[13] NTSB Report, p. 107(emphases added).

comments on drafts of the proposed GO 112 in both 2013 and 2014, and in Comments on the Proposed Decision in 2015.[14]

However, not only did the GO 112 Decision *not* revise the new GO 112-F to include the most important change the Commission has made to its gas safety regulations, but it also failed to provide a reasoned explanation of why it did not include language in GO 112-F codifying this important rule change. Such an omission constitutes unreasoned, arbitrary, and capricious decision making.

Perhaps in lieu of a reasoned explanation, the GO 112 Decision alludes to a workshop held on May 11 and 12, 2015 and claims that "This workshop addressed issues related to the relationship between Commission D.11-06-017 and federal regulations."[15] It later summarizes ORA's recommendation, and explains: "As set forth above, the Commission's Safety and Enforcement Division held a 2-day workshop on this issue."[16] Neither of these statements constitute either reasoned or record-based decision making that adequately address why ORA's proposal was rejected – nor can they be modified on rehearing to meet that standard.[17]

Contrary to the statement in the GO 112 Decision, the Workshop did not in *any* meaningful way "address[] issues related to the relationship between Commission D.11-06-017 and federal regulations." The only time D.11-06-017 was "addressed" during the Workshop was when PG&E made the disturbing admission that where a valid pressure test was not available, it was relying upon Commission decisions to make assumptions regarding the pressure test value of the pipe when calculating MAOP under § 619(a) of the federal regulations.[18] ORA asked if PG&E was suggesting that a Commission

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[14] See Note 3 above.

[15] D.15-06-044, p. 7.

[16] D.15-06-044, p. 17.

[17] ORA also notes that its proposal was made in the record at least two times before its Comments on the Proposed Decision, and so should have been addressed in the text of the GO 112 Decision, and not as simply comments on the Proposed Decision.

[18] As the PHMSA attorney present at the Workshop made clear, where a valid pressure test is not available, a gas operator may not "assume" the pressure test value for purposes of calculating MAOP

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decision could authorize standards less stringent than required under federal regulations. However, PG&E did not respond to the question.

In sum, nothing in the Workshop could provide a basis for rejecting ORA's proposal. In fact, the information PG&E shared at the Workshop regarding its pressure test assumptions to calculate MAOP, supports ORA's claim that there is confusion regarding what the Commission intended in D.11-06-017, and this confusion can only be resolved by the Commission's revising GO 112 to codify its intent in D.11-06-017.

3. ORA's Proposal To Codify Important Gas Safety Rules Is Not Just Of Academic Importance.

The Commission has an obligation, consistent with federal law, to enforce the minimum federal safety standards codified at 49 CFR Part 192 for California gas operators.[19] While it may not permit operators to comply with less stringent standards, it does have the authority to impose more stringent standards.[20]

The Commission's General Orders are intended to codify rules from Commission decisions regarding specific industry practices. GO 112 is intended to codify the rules for California gas operators. The new GO 112-F is entitled: "Rules Governing Design, Construction, Testing, Maintenance, And Operation Of Gas Gathering, Transmission, And Distribution Piping Systems." Consequently, any rule imposing a requirement more stringent than the federal regulations can and should be codified in GO 112.

As observed above, the Commission's failure to clarify and codify what it intended regarding the Grandfather Clause may well undermine future enforcement efforts to the extent those are appealed. Consistent with its determinations in D.11-06-

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under 49 CFR § 619(a).

[19] 49 USC § 60105.

[20] 49 USC § 60104(c): "Preemption. A State authority that has submitted a current certification under section 60105(a) of this title may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. …"

017, its representations to the NTSB, and its new Safety Policy issued on July 10, 2014,[21] the Commission should permanently and clearly codify its decision to close the pressure test exemption loophole that exists in the federal Grandfather Clause.

4. Disagreements Regarding What The New Rule Requires Should Be Resolved And The Commission Should Clarify Its Position In GO 112 – Silence Will Undermine The Commission's Gas Safety Enforcement Efforts.

Given the GO 112 Decision's silence regarding its reasons for rejecting ORA's proposal, ORA can only speculate as to why the rule was not codified in the new GO 112-F. ORA speculates that the most likely reason the GO 112 Decision did not codify the rule requiring an operator to test or replace all of its pipes, including grandfathered pipes, is because there is disagreement about what the rule means, what it was intended to do, and/or how it should be implemented. However, the importance of this rule to the Commission's gas safety enforcement efforts to keep California's safe supports codification of the rule. Safety requires the Commission to take action to resolve these uncertainties and articulate a clear rule to support gas safety enforcement efforts. Silence will not suffice.

There is no question that there is disagreement, as well as changing positions, on what the Commission intended when it "eliminated" the pressure test exemption previously permitted under the federal Grandfather Clause. This disagreement became evident to ORA during the Line 147 proceedings in this docket. For example, during that proceeding, ORA took the position that that reliance on the Grandfather Clause was completely eliminated by D.11-06-017.[22] In contrast, while PG&E's witnesses were evasive regarding what the Commission ordered in D.11-06-017, they all suggested that

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[21] The Safety Policy Statement of the California Public Utilities Commission was adopted on July 10, 2014. *See*, http://www.cpuc.ca.gov/NR/rdonlyres/967047D4-19CE-45B1-8766-057F1D7FF1CD/0/VisionZero4Final621014_5_2.pdf

[22] http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M077/K754/77754002.PDF
ORA Comments Regarding Proposed Changes to General Order 112-E, pp. 8-9.

PG&E could lawfully operate Line 147 at 400 psig,[23] which would have required operation under the Grandfather Clause. More recently, after a year of examining the federal regulations and consultations with staff at the federal Pipeline Hazardous Materials and Safety Administration (PHMSA), ORA has come to understand that reliance on the Grandfather Clause is appropriate, and was permitted under D.11-06-017, so long as an operator has certain historic operating pressure records, as well as a traceable, verifiable and complete pressure test record. Conversely, PG&E now appears to be taking the position that D.11-06-017 eliminated all reliance on the Grandfather Clause, and it claims to be calculating the MAOP of its pipes solely through reliance on 49 CFR § 192.619(a).[24] There are also questions that could be asked regarding *when* the Commission intended for gas operators to fully implement the new rule as well as if a valid pressure test record supports a lower MAOP than the historic operating records, which MAOP must be adopted.

In any event, these disagreements and potential open questions require resolution, rather than silence, if the Commission intends to make meaningful progress with its gas safety enforcement program. To avoid future conflict over these questions, the GO 112

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[23] PG&E's witnesses repeatedly stated that PG&E could legally request an MAOP of 400 psig for Line 147. See 18 RT 2837: 1-7; 2839: 18-20; 2841: 8-13; 2861:1-5 (Johnson/PG&E). See also, Ex. OSC-6, PG&E Response to ORA 96, Question 6(f).

[24] As the ALJ in the Line 147 proceeding would not require PG&E to explain how it was calculating its MAOP, ORA asked the same questions before another ALJ in A.13-12-012, PG&E's Gas Transmission and Storage Rate Case. In that case, PG&E's witness explained its position that D.11-06-017 did not permit it to operate under the Grandfather Clause and after being expressly directed by the ALJ to answer the question, PG&E explained it was calculating MAOP for its entire system pursuant to § 192.619(a). See A.13-12-012, 16 RT 1600-1601 (PG&E/Singh):

> A So as you may recall, in June of 2011 the decision that's been referenced several times in this proceeding, Decision 11-06-017, is the decision that we're operating under as a California operator, which is we don't rely on the grandfather clause to establish the MAOP.

And A.13-12-012, 16 RT 1604 (PG&E/Singh):

> ALJ: Okay. Which subsection is it, (a) or (c)?
>
> THE WITNESS: Section (c) doesn't apply to regulators or operators in California. So it's Section (a). 619(a). And that was clear in the letter that was circulated earlier this week as well.

Decision should be modified to articulate the rule adopted in D.11-06-017, and that rule should be incorporated into GO 112.

5. ORA Proposed Rule Change To Implement The Commission's Additional Requirements In D.11-06-017 Regarding Establishment Of MAOPs.

ORA provided specific recommendations in all of its comments proposing to codify what D.11-06-017 ordered. Those recommendations changed as ORA's understanding of the federal regulations evolved. ORA's last recommended rule, provided in its February 12, 2015 comments on the GO 112 Proposed Decision was as follows:

Requirements Regarding the Establishment of the Maximum Allowable Operating Pressure (MAOP) of a Pipeline Segment

1) All in-service natural gas transmission pipelines in California shall be pressure tested in accordance with 49 CFR Part 192 subpart J, or have been pressure tested under the standards in place at the time of the test, and the operator shall retain all records of the test required by this subpart. The schedule for conformance with this requirement has been determined for each operator according to the plan submitted pursuant to D.11-06-017 and approved by the Commission, as modified by later Commission decisions.

2) An operator shall specify in its records, and report promptly to the Commission as requested, the specific provision of 49 CFR Part 192 it is relying upon to establish the MAOP for each segment.

3) For an operator to rely upon 49 CFR § 192.619(c) to establish the MAOP of a segment, it shall have readily available traceable, verifiable, and complete records sufficient to establish the pipeline segment's condition and operating and maintenance history, including without limitation: (1) historical pressure records for the maximum operating pressure to which the entire pipeline segment was subjected during the five years prior to July 1, 1970;[25] and (2) records confirming

[25] These requirements are described in the Regulatory Interpretation Letter from Jeffrey D. Wiese, Associated Administrator for Pipeline Safety, Pipeline and Hazardous Materials Safety Administrations (PHMSA) to Joseph P. Como, Acting Director, Office of Ratepayer Advocates, California Public Utilities Commission, dated January 23, 2015, page 3 (PHMSA Regulatory Interpretation Letter). A copy of this PHMSA Regulatory Interpretation Letter is available on PHMSA's website at http://phmsa.dot.gov/vgnexttemplating/v/index.jsp?vgnextoid=4bf8588a7ab1b410VgnVCM100000d2c97

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that the segment has been subjected to a valid pressure test consistent with the requirements at the time of the test.[26]

4) The Grandfather Clause in § 192.619(c) cannot be used to determine the MAOP after a change in class location.[27]

5) Unless MAOP is established pursuant to subsection (3) above, where pipe characteristics are unknown, the operator shall comply with the requirements of 49 CFR 192 Subpart C to establish the MAOP of design for purposes of calculating of MAOP pursuant to 49 CFR § 192.619(a).

ORA proposes that the Commission consider *sua sponte* adoption of a rule similar to this, with the following modifications:

1) Part 1 and 3 should reflect that a pressure test prior to the adoption of GO 112 requires a minimum 1 hour duration.

Alternatively, for all of the reasons set forth above, rehearing should be granted to create a record for adoption of an alternative rule embodying the intent of D.11-06-017.

C. The GO 112 Decision Inaccurately Claims That This Proceeding Has Focused On Ensuring The Proper Determination Of MAOP For Every Pipe Segment, Thereby Significantly Mischaracterizing The Extent Of The Commission's Enforcement Work.

The GO 112 Decision states that "our primary efforts have been focused on ensuring that California's natural gas transmission system operators are properly determining the Maximum Allowable Operating Pressure (MAOP) for each segment of the natural gas transmission system."[28] As shown by the record evidence provided below, this statement is not correct. In fact, at least with regard to PG&E, the record reflects that the Commission has not considered the issue of whether PG&E is properly

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898RCRD&vgnextchannel=2b9b34d513f95410VgnVCM100000d2c97898RCRD&vgnextfmt=print. See also D.12-12-030, p. 96 describing records required to operate under 49 CFR § 192.619(c).

[26] D.11-06-017, p. 19 Ordering Paragraphs 4 through 7.

[27] PHMSA Regulatory Interpretation Letter, p. 3.

[28] D.15-06-044, p. 4.

determining the MAOP of its pipes. In making this statement at page 4 of the decision, the GO 112 Decision not only rewrites the history of the underlying rulemaking proceeding, R.11-02-019, but also represents that the Commission has undertaken important compliance work, which has not, in fact, been done. This is arbitrary and capricious decision making.

Gas operators must calculate MAOP pursuant to 49 CFR § 192.619, which is Subpart L of the minimum federal safety regulations, codified at 49 CFR Part 192. However, a review of the pressure restoration decisions issued in this docket, R.11-02-019, shows that the Commission's inquiry regarding whether a pipe's pressure could be increased focused *exclusively* on whether a Subpart J pressure test was performed on the pipe.[29]

When ORA discovered in the PG&E Line 147 pressure restoration proceedings in this docket that the Commission was *not* requiring operators to demonstrate compliance with the federal regulations for calculating MAOP, it raised the issue multiple times in the hearings, and asked that this oversight be corrected. The assigned Administrative Law Judge (ALJ) found that the issue of whether PG&E's Line 147 MOAP calculations complied with federal regulations could not be considered on the basis that it was not a requirement in prior Commission decisions, had never been considered in prior pressure restoration proceedings, and that it would require a change by Commission decision to pursue such an inquiry. The transcript from the Line 147 proceeding leaves no question as to this issue:

> ORA: What's concerning about this list [of what PG&E must show to raise the MAOP of a pipe contained in D.11-09-006] is it actually has a very significant omission which is the issue that we're raising here today, which is that PG&E is not required to show how it calculates the MAOP based on the pressure test readings consistent with [49 CFR §]192.619. And that is the problem that we have

[29] A review of the Commission's decisions setting the MAOPs for other PG&E gas lines confirms that the Commission only considered evidence of compliance with Subpart J (Test Requirements), and did not consider whether or not PG&E's proposed MAOPs complied with Subpart L of the code, which governs how MAOP is established. See, e.g., D.12-09-003, pp. 5 and 7, D.11-12-048, pp. 4 and 7-10, and D.11-10-010, p. 3 (there is mention of Subpart K in this decision (Uprating), but no mention of Subpart L).

with PG&E's showing today, or one of them. And that is what is missing from this decision and is a very significant error.

ALJ: This decision was issued on September 8 of 2011.

ORA: That may be. And what it sadly means is that the Commission has been doing this wrong for the last two years.

ALJ: Well, that is the process that the Commission has engaged in. This is the Commission's decision. And until it's changed, it's the decision that I need to apply in this proceeding.

ORA: I understand that that's your position, that's it's not an issue here, that the Commission has not complied -- insured that PG&E's MAOP calculation complies with federal regulations. **We understand that that is your position, that we should not explore that issue here.**

ALJ: **Right. It is – the Commission issued a decision two years ago. There's a list of things that are required for PG&E to present and we are -- and I'm bound to apply this decision until the Commission changes it.**[30]

Absent any inquiry to confirm that an operator is calculating the MAOP of its pipes consistent with federal regulations, there is no way for the Commission to ensure that gas operators are "properly determining" the MAOP "for each segment of the natural gas transmission system." Consequently, it is incorrect for the Commission to now claim in the GO 112 Decision that that "[i]n this proceeding, our primary efforts have been focused on ensuring that California's natural gas transmission system operators are properly determining the Maximum Allowable Operating Pressure (MAOP) for each segment of the natural gas transmission system." As demonstrated by the colloquy quoted above in the Line 147 proceeding, the diametric opposite was the case. The Commission has not considered whether PG&E had complied with federal regulations in calculating the MAOP of Line 147. This is a critical component of the Commission's safety responsibilities to ensure that operators are properly determining the MAOP.

[30] 18 RT 2768:3-2769:8 (*emphases added*). *See also,* 18 RT 2748:20-2750:25.

Making claims in a Commission decision contrary to the record evidence undermines the Commission's credibility and, in this case, its commitment to meaningful gas safety enforcement reform. It also misrepresents to the public that the Commission is undertaking important enforcement work which the record demonstrates it has, for the most part, ignored throughout this proceeding. The prohibition against arbitrary and capricious decision making requires the Commission to correct this incorrect statement in the GO 112 Decision quoted above at the beginning of section C and to explain its reasoning either to adopt ORA's position or to reject it.

III. CONCLUSION

For all the foregoing reasons, and as set forth in the record of this proceeding, rehearing should be granted and the Decision should be revised to correct the errors identified herein or the Commission should grant rehearing to revise GO 112 as discussed above.

Respectfully submitted,

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